

Neal Potischman (SBN 254862)  
Jonathan K. Chang (SBN 355907)  
Vincent Barredo (SBN 275518)  
Michael G. Mills (SBN 350938)  
DAVIS POLK & WARDWELL LLP  
900 Middlefield Road, Suite 200  
Redwood City, California 94063  
Telephone: (650) 752-2000  
Facsimile: (650) 752-2111  
Email: neal.potischman@davispolk.com  
jonathan.chang@davispolk.com  
vincent.barredo@davispolk.com  
michael.mills@davispolk.com

Rory A. Leraris (*pro hac vice*)  
Jaclyn M. Willner (*pro hac vice*)  
Emily Park (*pro hac vice*)  
DAVIS POLK & WARDWELL LLP  
450 Lexington Avenue  
New York, New York 10017  
Telephone: (212) 450-4000  
Facsimile: (212) 701-5800  
Email: rory.leraris@davispolk.com  
jaclyn.willner@davispolk.com  
emily.park@davispolk.com

*Attorneys for Defendants Equinix, Inc.,  
Charles Meyers, and Keith D. Taylor*

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

UNIFORMED SANITATIONMEN'S  
ASSOCIATION COMPENSATION  
ACCRUAL FUND,

Plaintiff,

v.

EQUINIX, INC., CHARLES MEYERS, and  
KEITH D. TAYLOR,

Defendants.

) Case No. 3:24-cv-02656-VC  
)  
) **DEFENDANTS' REQUEST FOR**  
) **JUDICIAL NOTICE IN SUPPORT OF**  
) **THEIR OPPOSITION TO PLAINTIFF'S**  
) **MOTION TO CERTIFY THE CLASS**  
)  
)  
) Date: July 31, 2025  
) Time: 10:00 a.m.  
) Courtroom: 4  
) Honorable Vince Chhabria  
)  
)  
)

Defendants Equinix, Inc. (“Equinix” or the “Company”), Charles Meyers, and Keith D. Taylor (collectively, “Defendants”) hereby request that the Court take judicial notice of Exhibits 1, 2, 4-16, and 18 to the Declaration of Jonathan K. Chang (the “Chang Declaration”) in Support of Defendants’ Opposition to Plaintiff’s Motion to Certify the Class (“Opposition”).

### ARGUMENT

The Federal Rules of Evidence permit judicial notice of “an adjudicative fact” if it “is not subject to reasonable dispute,” because it is “generally known” or “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(a)-(b); *see In re Apple Inc. Device Performance Litig.*, 386 F. Supp. 3d 1155, 1164 (N.D. Cal. 2019); *see also In re Sorrento Therapeutics Sec. Litig.*, 2021 WL 6062943, at \*4 (S.D. Cal. Nov. 18, 2021). For the reasons explained below, the Court may take judicial notice of Exhibits 1, 2, 4-16, and 18 to the Chang Declaration “for the purpose of determining what information was available to the market.” *Chicago & Vicinity Laborers’ Dist. Council Pension Fund v. Amplitude, Inc.*, 2024 WL 4375775, at \*1 (N.D. Cal. Oct. 2, 2024) (Chhabria, J.) (citation omitted). Defendants are not asking the Court to take judicial notice of these exhibits for the truth of the matter asserted (indeed, Defendants generally dispute the truth of the contents of these exhibits).<sup>1</sup>

Exhibits 1, 2, 4-16, and 18 to the Chang Declaration are true and correct copies of news articles, an SEC filing, research analyst reports, and two transcripts of a podcast<sup>2</sup> that were all in the public realm.<sup>3</sup> Courts routinely take judicial notice of these types of documents.

---

<sup>1</sup> Defendants’ request for judicial notice does not include Exhibits 3 or 17 to the Chang Declaration, which are true and correct copies of records maintained and produced by non-parties Hindenburg Research, LLC and Columbia Threadneedle Investments, respectively.

<sup>2</sup> As explained further below, Exhibit 14 is a declaration that attaches a transcript of a podcast that its publisher posted on its website. The Court need not take judicial notice of the declaration to consider its contents. Defendants’ request for judicial notice as to Exhibit 14 only covers the transcript appended to the declaration. The podcast is discussed further *infra*.

<sup>3</sup> The Court has already taken judicial notice of similar facts available in the public realm “for the purpose of determining the information that was available to the market” in prior briefing for this litigation. *See* ECF No. 67 (Jan. 6, 2025 Order re Motion to Dismiss) at 2.

1       **SEC Filing.** Exhibit 7 to the Chang Declaration is a true and correct copy of an excerpt  
 2 of a Form ADV filed with the Securities and Exchange Commission (the “SEC”). Courts  
 3 routinely take judicial notice of documents (and excerpts of documents) filed with the SEC for  
 4 purposes of determining information available to the market. *See, e.g., Amplitude, Inc.*, 2024  
 5 WL 4375775, at \*1 (granting request to take judicial notice of SEC filings for the purpose of  
 6 determining “what information was available to the market”) (citation omitted); *Sneed v. AcelRx*  
 7 *Pharms., Inc.*, 2023 WL 4412164, at \*3-4 (N.D. Cal. July 7, 2023) (judicially noticing facts in  
 8 excerpts of SEC filings); *In re Splunk Inc. Sec. Litig.*, 592 F. Supp. 3d 919, 930 (N.D. Cal. 2022)  
 9 (taking judicial notice of SEC filings).

10       **News Media Articles.** Exhibits 1, 2, 4-6, 8-11, and 13 are news media articles. “Courts  
 11 may take judicial notice of publications introduced to indicate what was in the public realm at the  
 12 time, not whether the contents of those articles were in fact true.” *Von Saher v. Norton Simon*  
 13 *Museum of Art at Pasadena*, 592 F.3d 954, 960 (9th Cir. 2010) (quotation marks omitted); *see*  
 14 *also In re Am. Apparel, Inc. S’holder Litig.*, 855 F. Supp. 2d 1043, 1062 (C.D. Cal. 2012)  
 15 (“Taking judicial notice of news reports and press releases is appropriate for show[ing] that the  
 16 market was aware of the information contained in news articles.”) (quotation marks omitted);  
 17 *Brodsky v. Yahoo! Inc.*, 630 F. Supp. 2d 1104, 1111 (N.D. Cal. 2009) (taking judicial notice of  
 18 information contained in news articles); *Heliotrope Gen., Inc. v. Ford Motor Co.*, 189 F.3d 971,  
 19 981 n.18 (9th Cir. 1999) (taking “judicial notice that the market was aware of the information  
 20 contained in news articles submitted by the defendants”).

21       **Analyst Reports.** Exhibits 12, 16, and 18 are research analyst reports.<sup>4</sup> As with news  
 22 articles, “courts routinely take judicial notice of analyst reports, not in order to take notice of the  
 23 truth of the matters asserted therein, but in order to determine what may or may not have been  
 24 disclosed to the public.” *In re Century Aluminum Co. Sec. Litig.*, 2011 WL 830174, at \*9 (N.D.  
 25 Cal. Mar. 3, 2011); *see also Amplitude, Inc.*, 2024 WL 4375775, at \*1 (granting request to take  
 26

27       <sup>4</sup> Exhibits 12 and 16 are referred to in the Amended Complaint. (See Am. Compl. ¶¶ 108-  
 28 110, 164.)

1 judicial notice of analyst reports for purpose of determining “what information was available to  
 2 the market”) (citation omitted); *Brodsky*, 630 F. Supp. 2d at 1111 (taking judicial notice of  
 3 information contained in analyst reports).

4 ***Transcript of Podcast.*** Exhibits 14 and 15 relate to a podcast that was published on or  
 5 about March 28, 2023 by Colossus, LLC (“Colossus”) through various channels including Apple  
 6 Podcasts, Spotify, and YouTube. (*See* Ex. 14 ¶ 4.) Exhibit 14 is a declaration of the Chief  
 7 Executive Officer of Colossus, which attaches as Exhibit 1 thereto a transcript of the March 28,  
 8 2023 podcast generated by artificial intelligence, which Colossus posted on its public website.  
 9 (*Id.* at ¶ 6.) Exhibit 15 is a certified transcript of the March 28, 2023 podcast that Defendants  
 10 caused to be prepared in connection with this litigation. Defendants request the Court to take  
 11 judicial notice of the two transcripts of the March 28, 2023 podcast (i.e., Exhibit 1 to the  
 12 declaration that is Exhibit 14, and the entirety of Exhibit 15). Courts take judicial notice of  
 13 podcasts to ““indicate what was in the public realm at the time.”” *Sweet v. City of Mesa*, 2021  
 14 WL 3130335, at \*1-2 & n.1 (D. Ariz. Jul. 23, 2021) (quoting *Von Saher v. Norton Simon*  
 15 *Museum of Art at Pasadena*, 592 F.3d 954, 960 (9th Cir. 2010)) (taking judicial notice of podcast  
 16 episodes and associated descriptions accessible online); *see also Brave New Films 501(C)(4) v.*  
 17 *Weiner*, 2009 WL 1622385, at \*1 n.1 (N.D. Cal. June 10, 2009) (taking judicial notice of  
 18 excerpts of audio recording of radio talk show program); *cf. Twinde v. Threshold Pharms. Inc.*,  
 19 2008 WL 2740457, at \*11 (N.D. Cal. July 11, 2008) (taking judicial notice of audio recording of  
 20 public conference call).

## 21 CONCLUSION

22 For the foregoing reasons, the Court should grant Defendants’ Request for Judicial  
 23 Notice.

1 Dated: May 30, 2025

DAVIS POLK & WARDWELL LLP

2 /s/ Rory A. Leraris

3 Neal Potischman (SBN 254862)

4 Jonathan K. Chang (SBN 355907)

5 Vincent Barredo (SBN 275518)

6 Michael G. Mills (SBN 350938)

7 DAVIS POLK & WARDWELL LLP

8 900 Middlefield Road, Suite 200

9 Redwood City, California 94063

10 Telephone: (650) 752-2000

11 Facsimile: (650) 752-2111

12 Email: neal.potischman@davispolk.com

13 jonathan.chang@davispolk.com

14 vincent.barredo@davispolk.com

15 michael.mills@davispolk.com

16 Rory A. Leraris (*pro hac vice*)

17 Jaclyn M. Willner (*pro hac vice*)

18 Emily Park (*pro hac vice*)

19 DAVIS POLK & WARDWELL LLP

20 450 Lexington Avenue

21 New York, New York 10017

22 Telephone: (212) 450-4000

23 Facsimile: (212) 701-5800

24 Email: rory.leraris@davispolk.com

25 jaclyn.willner@davispolk.com

26 emily.park@davispolk.com

27 *Attorneys for Defendants Equinix, Inc.,*

28 *Charles Meyers, and Keith D. Taylor*